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HIGH COURT OF CHHATTISGARH AT BILASPUR

CORAM : Hon'ble Shri S.R. Nayak, C.J. &
Hon'ble Shri V.K. Shrivastava, J.

MISCELLANEOUS APPEAL NO. 328 OF 2006 (C)

APPELALNT:
Respondent NO.3

United India Insurance Company Limited, through Its Divisional Manager, Divisional Office, Korba, District. Korba (CG).

Versus

RESPONDENTS:

1. Smt. Birajhi widow of Late Ganesh Ram Yadav, aged about 48-years,
2. Bhojram Yadav, s/o. late Ganeshram Yadav, aged about 26 years,
3. .Gauranand Yadav, s/o. Late Ganeshram Yadav, aged about 25 years,

   All are R/o. CSEB Colony, Quarter No.S.F./489 Korba East, Tah. PS. & Distt. Korba (CG).
4. Mahendra Singh Chandravanshi, S/o. Ramvriksh Chandravanshi, Aged 44 years, r/o. Bhauri, PS-Reki, Distt. Gadhhawara (Jharkhand).
5. M/s. R.K. Constructions Co. Ltd., M.I.G. C/544, Padmanabhpur, (CG), Dist. Durg (CG).

Present : Mr. Dashrath Gupta, counsel for the appellants.

ORAL ORDER

(Dated 15th November, 2006)

The following oral order of the Court was passed by Vijay Kumar Shrivastava, J.

This appeal is directed against the award dated 25/07/2006 passed by Additional Motor Accident Claims Tribunal, Korba, in Claim Case No. 114/2004 , whereby awarded a compensation of Rs.11,52,280/- to respondents No. 1, 2 and 3., who are claimants, against respondents No. 4, 5 and appellant.

In nutshell, facts of the case are that on 28/04/2004 Ganesh Ram Yadav met with an accident with Truck bearing registration No. CG 04/G/3506 and succumbed to injuries. The vehicle was driven by Mahendra Singh (respondent No.4), rashly and negligently. The owner of the vehicle was respondent No.5 and the vehicle was insured with the appellant. At that time deceased Ganesh Ram while working in CSEB as Plant Assistant was drawing Rs.15,494/- p.m. Although appellant refuted the claim, but, the Tribunal after taking into consideration evidence on record held respondents No. 1 to 3 entitled for compensation from appellant and respondents No. 4 and 5.

Learned Tribunal after allowing deductions calculated the amount of dependency and applying multiplier of 11 has awarded the amount of Rs.11,27,280/- towards the loss of dependency. After allowing usual compensation on other heads, passed award for a total sum of Rs.11,58,280/-. Feeling aggrieved, Insurance Company i.e., the appellant has challenged the award.

Learned counsel for the appellant contended that the Tribunal erred in calculating the dependency and without taking into account all the deductions has awarded compensation on higher side, even in applying the multiplier, Tribunal failed to consider his remaining period of service. From the award itself, learned Tribunal in accordance with judgment laid down by the Hon'ble Apex Court in **Asha Devi and others Vs. United Indian Insurance Company Ltd.**[1], after reducing necessary deductions, calculated the dependency and also taking into account the age of the deceased applied multiplier of 11. For application of multiplier, the deciding factor is age of deceased and not his length of service which was remained to be served by him.

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[1] ACJ 2004 Page 448

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So far as calculation towards loss of dependency is concerned, that does not appear to be without evidence, illegal or perverse. During arguments, no other points have been raised.

The appeal is devoid of merit, therefore, it is dismissed *in limine.* No costs.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Chief Justice

Raju